



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. DANIEL DIAZ
CR-14-0063-PR**

PARTIES:

Petitioner: Daniel Diaz

Respondent: State of Arizona

FACTS:

The police arrested Daniel Diaz for possession of methamphetamine when they pulled over the car he was driving and his then-girlfriend admitted that she was hiding a bag of methamphetamine in her vagina.

Before trial, the State offered Diaz a plea agreement under which he would plead guilty and stipulate to a 9-year prison term. Diaz rejected the offer and the case went to trial. Near the end of the trial, the trial court held a hearing and discussed with Diaz the State's offer of another plea agreement, this time with a stipulation to a 15-year term. Diaz again rejected the offer, and the jury subsequently convicted him.

At the sentencing hearing, the trial court considered two different potentially applicable sentencing ranges. The State argued the court should sentence Diaz under A.R.S. § 13-604(D), which would subject Diaz to an enhanced presumptive term of 15 years and a maximum term of 28 years. The defense argued A.R.S. § 13-712 should apply, which would subject Diaz to a presumptive term of 10 years and a maximum term of 15 years. The trial court ultimately applied the former range and sentenced Diaz to 25 years' imprisonment.

On direct review, the Arizona Court of Appeals reversed the sentence, but the Arizona Supreme Court reversed that decision and affirmed the longer sentence.

In his first post-conviction-relief proceeding, Diaz's attorney asked for two extensions of time to file the post-conviction-relief petition, but the trial court

dismissed the proceeding without accepting a filed petition. In his second post-conviction-relief proceeding, Diaz's next attorney asked for four extensions of time to file the post-conviction-relief petition. Again, the trial court dismissed the proceeding in the absence of any filed petition.

In his third post-conviction-relief proceeding, Diaz raised the underlying claim that his trial attorney committed ineffective assistance of counsel by not telling him about the potential for an enhanced sentence under the longer range of A.R.S. § 13-604(D). The State countered that the claim both failed on the merits and faced preclusion because Diaz did not previously raise that underlying ineffective assistance claim in either his first or second post-conviction-relief proceedings. The trial court and the court of appeals agreed that Arizona law precluded the underlying ineffective assistance claim because it was not raised in those earlier proceedings.

ISSUE:

The Arizona Supreme Court granted review on the following issue:

Is a criminal defendant precluded from raising an ineffective assistance of counsel claim in a successive post-conviction relief proceeding when, without fault of his own, his prior two court-appointed attorneys failed to file a petition in the two prior post-conviction relief proceedings?

This Summary was prepared by the Arizona Supreme Court Staff Attorneys' Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum, or other pleading filed in this case.